

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Interconnection and Resale Obligations)
Pertaining to)
Commercial Mobile Radio Services)

CC Docket No. 94-54

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To: The Commission

COMMENTS OF E.F. JOHNSON COMPANY

E.F. Johnson Company ("E.F. Johnson" or the "Company"), by its attorneys, pursuant to the provisions of Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC or "Commission") hereby submits its Comments in response to the Second Notice of Proposed Rule Making ("Notice") adopted in the above-referenced proceeding¹ in which the Commission (1) proposes rules relating to the resale obligations of Commercial Mobile Radio Service ("CMRS") providers; and (2) considers whether to require direct interconnection arrangements between CMRS providers.

I. INTRODUCTION

E.F. Johnson is a leading designer and manufacturer of radio communications and specialty communications products for commercial and public safety use. Founded over seventy years ago as an electronic components manufacturer, E.F. Johnson entered the radio communications equipment market in the late 1940's and is one of the three largest providers of land mobile radio systems in the United States. It produces base stations, vehicular mounted and portable transmitters that operate in various portions of the radio spectrum that are used by a

¹ In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Notice of Proposed Rule Making, CC Docket No. 94-54, FCC 95-149 (released April 20, 1995).

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variety of entities requiring communications capabilities. The Company manufactures products for Commercial Mobile Radio Service (“CMRS”) providers in, among others, the 800 MHz, 900 MHz and 220 MHz frequency bands.

The proposals in this Notice will have an important effect upon CMRS licensees, particularly small providers of 800 MHz specialized mobile radio (“SMR”) services. The Company is a major manufacturer and distributor of products to these industry segments. Licensees that use the Company’s equipment will, therefore, be affected by the new rules adopted as a result of the Notice which will, in turn, affect the Company’s ability to sell its products. Moreover, any requirements to implement CMRS-to-CMRS interconnection may have an effect on the products manufactured by the Company. Accordingly, E.F. Johnson is pleased to have this opportunity to submit the following Comments in response to the Notice.

II. COMMENTS

A. Resale Obligations

E.F. Johnson disagrees with the Commission’s tentative conclusion that the existing obligations on cellular providers to permit resale should be extended to apply to all CMRS providers and that resale obligations should be a condition of license for all CMRS providers. Requiring all CMRS providers to permit unrestricted resale to any entity other than a fully operational facilities-based competitor would harm the ability of small, facilities-based SMR providers to compete effectively.

Resale opportunities may be attractive for some small SMR licensees. Those licensees, even with limited capacity, could potentially reap the same profits by selling to one or several entities the capacity of their system that might otherwise be made available to many customers.

However, that decision should be the choice of the SMR provider, not mandated by the Commission. Other small SMR providers may find it commercially reasonable to retain capacity on their system that might be used by resellers. For example, many small SMR providers operate sales and service facilities. Their ability to sell hardware may be closely linked to the ability to sell service on a system. To the extent that their limited capacity is taken by resellers, their ability to sell that hardware may be compromised.

Moreover, a requirement for all CMRS licensees to resell service is contrary to the creation of multiple opportunities for consumers to satisfy their mobile communications requirements. The mere presence of varied and numerous facilities-based CMRS providers will ensure effective competition and a multitude of choices for consumers. To the extent that the Commission finds that a particular service requires the addition of competitors which cannot be addressed by the licensing of other providers, it may later require resale. There is, however, no evidence that market conditions will not produce significant consumer choice by creating multiple facilities-based providers and resellers.

B. Interconnection Obligations

E.F. Johnson agrees with the Commission that it would be premature to propose rules requiring direct interconnection arrangements between CMRS providers, but supports a strong Commission policy position favoring interconnection among CMRS networks. E.F. Johnson believes that the CMRS marketplace will function as an effective regulator of interconnection arrangements once such interconnection is technically feasible, and that such arrangements should be established through good faith negotiation among the providers involved.

E.F. Johnson believes, however, that the Commission must act to ensure that there are no technical impediments to providers offering CMRS-to-CMRS interconnection. Interconnection, as defined in this proceeding, between CMRS providers, is not possible without interoperability. Accordingly, in order to ensure interconnection between CMRS networks, equipment manufacturers should have access, under reasonable commercial terms and conditions, to proprietary signaling protocols. In the cellular service, the non-proprietary nature of the signaling protocol has permitted subscribers of different operators to communicate on each other's systems. Access to signaling protocols will allow service across CMRS services, much as it has within the cellular service. Without access to such protocols, a subscriber of one CMRS network will be unable to communicate with a subscriber of another network, unless, as is the case today, the call is intercepted and transmitted through the public switched telephone network ("PSTN"). Manufacturers should be encouraged to negotiate arrangements with one another for use of intellectual property rights with respect to a common air interface. In the event that voluntary negotiations do not result in acceptable arrangements, the Commission should be prepared to intercede.

The interconnectivity of mobile communications will promote the flexibility and availability of services to customers. Customers of landline telecommunications are able to subscribe, for example, to any of a number of long distance service providers, all of whom interconnect directly with the local telephone company. If CMRS-to-CMRS interconnection is to flourish, CMRS customers should have the same freedom of choice. They should be able to communicate, on their equipment, on any available CMRS network. The Commission therefore

should consider all interconnection/interoperability requests that are technically and economically feasible to be "reasonable" in keeping with its policy of favoring interconnectivity.

III. CONCLUSIONS

Requiring CMRS providers to permit virtually unrestricted resale of their services does not serve the public interest. Imposing a resale obligation on small, facilities-based CMRS providers may impede their ability to offer service. Moreover, the competitive nature of the CMRS market eliminates the necessity of such a resale requirement. Requiring direct interconnection arrangements between CMRS providers is not necessary for the same reason. The Commission should be resolute, however, in its promotion of interconnectivity between CMRS networks in order to ensure that marketplace forces can create the CMRS-to-CMRS interconnection the Commission contemplates.

WHEREFORE, THE PREMISES CONSIDERED, E.F. Johnson Company hereby submits the foregoing Comments and urges the Commission to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

E.F. JOHNSON COMPANY

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